

**INSURANCE DIVISION[191]**

**Adopted and Filed**

Pursuant to the authority of Iowa Code section 507B.12, the Insurance Division hereby adopts amendments to Chapter 15, “Unfair Trade Practices,” Iowa Administrative Code.

The rules in Chapter 15 provide standards and procedures for recommendations to consumers that result in transactions involving annuity products so that the insurance needs and financial objectives of consumers at the times of the transactions are appropriately addressed. The amendments bring the rules into accord with a new model regulation drafted by the National Association of Insurance Commissioners (NAIC). These amendments will become effective January 1, 2011. Insurance companies and producers shall comply with the amendments beginning January 1, 2011, for policies sold in Iowa on or after January 1, 2011.

Notice of Intended Action was published in the Iowa Administrative Bulletin on May 19, 2010, as **ARC 8768B**. A public hearing was held on June 8, 2010, at the offices of the Iowa Insurance Division, 330 Maple Street, Des Moines, Iowa. A comment was received asking why the Division did not identically copy the penalty provision of the NAIC model. It is the position of the Division that the amendments to the Iowa suitability regulation follow the amendments adopted by the NAIC in March except for one notable change relating to penalties. The penalty provision, subrule 15.73(2), refers to the penalties established in Iowa Code chapter 507B, with an additional provision that the penalty shall be reduced or eliminated if (1) corrective action for the consumer was taken promptly after a violation was discovered, and (2) the violation was not part of a pattern or practice. It has been the Division’s policy to encourage a company to take corrective action promptly if the company finds a violation or violations of compliance requirements. In addition, the Division should be able to ascertain by a company’s suitability processes whether a pattern or practice of violation is occurring; that is the reason for the second requirement.

Iowa does not have the current NAIC Unfair Trade Practices Model Act in its statutes and, thus, does not have the mitigating language contained in that model relating to patterns and practices. Iowa Code subsection 507B.7(1), paragraph “a,” contains a provision that states: “If the commissioner finds that a violation of this subtitle was directed, encouraged, condoned, ignored, or ratified by the employer of the person or by an insurer, the commissioner shall also assess a fine to the employer or insurer.” The Division believes that the additional wording in the new regulation fits within this existing statutory provision.

These amendments are identical to those published under Notice.

These amendments are intended to implement Iowa Code chapter 507B.

These amendments will become effective on January 1, 2011.

EDITOR’S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [15.68 to 15.75] is being omitted. These amendments are identical to those published under Notice as **ARC 8768B**, IAB 5/19/10.

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[For replacement pages for IAC, see IAC Supplement 7/14/10.]